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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,143	06/30/2003	Boris Ginzburg	P-5751-US	8189
49444	7590	07/25/2006	EXAMINER	
PEARL COHEN ZEDEK LATZER, LLP 1500 BROADWAY, 12TH FLOOR NEW YORK, NY 10036			FIGUEROA, MARISOL	
			ART UNIT	PAPER NUMBER
			2617	

DATE MAILED: 07/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/608,143	GINZBURG ET AL.	
	Examiner	Art Unit	
	Marisol Figueroa	2617	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 May 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 6/30/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

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### DETAILED ACTION

1. The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

#### *Response to Arguments*

2. Applicant's arguments filed on 5/10/2006 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "*each of the independent claims 1, 13, 25, 30, and 36, recites, in paraphrase, storing in a buffer during an awake mode data packets sent for transmission during a power save mode*" in page 2, lines 19-26 of applicant's remarks; and '588 Publication "*does not disclose buffering by a device of a data packet sent for transmission by the same device*" in page 3, lines 16-22 of applicant's remarks ) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's arguments that "the '588 Publication describes "voice data" (and not data packets sent for transmission) in stored in the buffer..." and that "voice data" received by a microphone is significantly different from "data packets sent for transmission" (page 3, lines 1-15 of applicant's remarks), the examiner respectfully disagrees. The claim language does not specifically distinguish from the applied prior art. "Data packets" and "voice data" are considered equivalents.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claims 1-4, 6, 10-12, 13-16, 18, 22-29, 36-39** are rejected under 35 U.S.C. 102(e) as being anticipated by Beach et al. (US 2004/0072588 A1).

**Regarding claims 1 and 13**, Beach '588 discloses a method comprising: transmitting by a wireless communication device during an awake mode of said wireless communication device one or more data packets sent for transmission during a power save mode of said wireless communication device (p.0021-0022; p.0026; the mobile unit receives during a first time period T (01) voice data received by a microphone of the mobile unit, the voice data is received by the processor and stored in a buffer portion of a memory, during most of each time period T the mobile unit is in the power save while the transmitter/receiver is inactive, and during an initial portion of each time period T/R active interval the mobile unit goes to the communication active mode and transmits a data packet that was accumulated during a preceding time period T).

**Regarding claims 2 and 14**, Beach '588 discloses the method of claim 1, further comprising buffering said one or more data packets during said power save mode (p.0021, lines 6-14; p.0022, lines 1-3; the mobile unit stores voice data in buffers A and B).

**Regarding claims 3 and 15**, Beach '588 discloses the method of claim 2, wherein transmitting during an awake mode comprises transmitting said one or more packets in response to

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a wake-up trigger (p.0022, lines 1-9; the mobile unit transmits the data packet at the end of every time period T in which is an indication for the processor to activate the transmitter).

**Regarding claims 4 and 16,** Beach '588 discloses the method of claim 3, wherein said wake-up trigger relates to an aggregate anticipated transmission time of the one or more data packets (p.0022, lines 1-9; T/R active intervals 64, 66, 68 are the intervals of time already designated for the transmission of packets buffered).

**Regarding claims 6 and 18,** Beach '588 discloses the method of claim 3, wherein said wake-up trigger relates to a period of time during which no data packets are sent for transmission (p.0022, lines 1-9; the mobile unit activates its transmitter in the T/R active interval to transmit packets accumulated or received in a previous time period).

**Regarding claim 10 and 22,** Beach '588 discloses the method of claim 1, wherein transmitting during an awake mode comprises transmitting an awake mode signal to indicate a start of said awake mode (p.0026, lines 8-16; the mobile unit transmits the accumulated packets to the access point along with a signal that the mobile unit has gone to the communication active (CAM) mode).

**Regarding claims 11 and 23,** Beach '588 discloses the method of claim 1, wherein transmitting during an awake mode comprises transmitting a power save signal to indicate an end of said awake mode (p.0026, lines 20-23; the mobile unit signals the access point when entering the power save mode).

**Regarding claims 12 and 24,** Beach '588 discloses the method of claim 1, comprising disabling a transmitter during said power save mode (p.0022, lines 1-3; p.0026, lines 8-10).

**Regarding claim 25,** Beach '588 discloses an apparatus comprising:

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a buffer to store one or more data packets during a power save mode of said apparatus (Fig.2; p.0014; (p.0021; p.0022, lines 1-3; p.0031, lines 1-7; the mobile unit accumulates a received audio packet in buffers A and B in the external memory 38); and

a transmitter operatively coupled to said buffer (Fig.2, RF module 36 coupled to the buffer, e.g. external memory, through the processor),

said transmitter to transmit during an awake mode of said apparatus said one or more data packets stored by said buffer during said power save mode of said apparatus (p.0022, lines 3-9).

**Regarding claim 26**, Beach '588 discloses the apparatus of claim 25, further comprising a processor adapted to transmit an awake signal to indicate a start of said awake mode (Fig.2; p.0008, lines 1-4; p.0026, lines 10-16; the mobile unit comprises a processor 32 that causes that the RF module to transmit a signal indicating the that the mobile unit has gone to the communications active (CAM) mode).

**Regarding claim 27**, Beach '588 discloses the apparatus of claim 26, wherein said processor is further adapted to transmit a power save signal to indicate an end of said awake mode (p.0026, lines 20-23).

**Regarding claim 28**, Beach '588 discloses the apparatus of claim 27, comprising a disabling unit to disable said transmitter during said power save mode (p.0022, lines 1-3; p.0026, lines 8-10; the processor shuts down the RF module, e.g. transmitter/receiver, in the power save mode of the mobile unit).

**Regarding claim 29**, Beach '588 discloses the apparatus of claim 28, wherein said disabling unit is able to enable said transmitter during said power save mode (figure 3; p.0022, lines 1-9; the mobile unit is in a power save mode during most of each time period T and briefly awake during an initial portion of time period T for transmitting accumulated data).

**Regarding claim 36,** Beach '588 discloses a wireless communication system comprising:

a first wireless device adapted to transmit during an awake mode of said first wireless communication device one or more data packets sent for transmission by said first wireless communication device during a power save mode of said wireless communication device (p.0026, lines 1-16; the mobile unit activates its RF module to transmit accumulated data packets that was previously accumulated in a previous time period T in where the mobile unit was in a power save mode); and

a second wireless device adapted to receive said one or more data packets (p.0026, lines 10-16; the access point receives the transmitted packet by the mobile unit ).

**Regarding claim 37,** Beach '588 discloses the wireless communication system of claim 36, wherein said second wireless device is further adapted to transmit during said awake mode one or more data packets sent for transmission during said power save mode (p.0026, lines 16-20; the access point transmits any received packet that is destined to the mobile unit and buffered in the access point during the power save period).

**Regarding claim 38,** Beach '588 discloses the wireless communication system of claim 37, wherein said first wireless device is further adapted to transmit an awake mode signal to indicate a start of said awake mode (p.0026, lines 8-16; the mobile unit transmits the accumulated packets to the access point along with a signal that the mobile unit has gone to the communication active (CAM) mode).

**Regarding claim 39,** Beach '588 discloses the wireless communication system of claim 38, wherein said first wireless device is further adapted to transmit a power wave mode signal to indicate an end of said awake mode (p.0026, lines 20-23; the mobile unit signals the access point when entering the power save mode).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 5 and 17** are rejected under 35 U.S.C. 103(a) as being unpatentable over Beach et al. ('588) in view of Kaikuranta et al. (US 6,031,825).

**Regarding claim 5**, Beach ('588) discloses the method of claim 3, but fails to disclose wherein said wake-up trigger relates to an aggregate size of the one or more data packets. Kaikuranta teaches a mobile phone that communicates via an IR-link with its accessories to transmit audio, control, and data signals between them (abstract, lines 1-5), furthermore teaches that the mobile phone comprises serial FIFO buffers used to temporarily store data, and when the buffer is full the data is transmitted (col.5, line 62 – col.4, lines 1-11). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention, for a wake-up trigger to relate to an aggregate size of the one or more data packets as suggested by Kaikuranta, in order to avoid overflow of data packets in the buffer.

7. **Claims 7-9, and 19-21** are rejected under 35 U.S.C. 103(a) as being unpatentable over Beach et al. ('588) in view of Beach (US 2003/0086443 A1).

**Regarding claims 7 and 19**, Beach '588 discloses the method of claim 2, but fails to disclose wherein buffering comprises buffering one or more of said data packets based on a priority criterion. Beach '443 teaches a method of buffering packets at an access point in a period



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corresponded to a power save mode (P.0017, lines 13-19) and in which a criterion for transmission of packets is established (P.0019). The access points divides traffic addressed to the stations in two categories, data that which must be sent immediately and data that which can be held until asked for by the mobile unit. If the access points determine that the data pertains to the second category the data is treated as power saving mode PSM packets and are buffered. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to buffer data packets according to a priority criterion as suggested by Beach '443, in order to determine which packets may not need to be sent immediately and buffer them to save power to mobile units by maintaining off their receivers during the power save mode period.

**Regarding claims 8 and 20**, the combination of Beach '588 and Beach '443 disclose the method of claim 7, wherein transmitting comprising transmitting said one or more data packets based on said priority criterion. Beach '443 teaches a method of buffering packets at an access point in a period corresponded to a power save mode (P.0017, lines 13-19) and in which a criterion for transmission of packets is established (P.0019). The access points divides traffic addressed to the stations in two categories, data that which must be sent immediately and data that which can be held until asked for by the mobile unit. Data is sent immediately if it falls within the first category. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to transmit data based on a priority criterion as suggested by Beach '443, because there some types of packets that needs to be sent immediately and therefore have a high priority compare to other packets.

**Regarding claims 9 and 21**, the combination of Beach '588 and Beach '443 disclose the method of claim 8, wherein said priority criterion relates to the priority of said one or more data packets. Beach '443 teaches a method of buffering packets at an access point in a period

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corresponded to a power save mode (P.0017, lines 13-19) and in which a criterion for transmission of packets is established (P.0019-0020). The access points divides traffic addressed to the stations in two categories, data that which must be sent immediately and data that which can be held until asked for by the mobile unit. Data is sent immediately if it falls within the first category. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to establish a priority criterion related to the data packets as suggested by Beach '443, because it determines which type of packets can be buffered in order to save power to the mobile units.

8. **Claims 30-35** are rejected under 35 U.S.C. 103(a) as being unpatentable over Beach et al. ('588).

**Regarding claim 30**, Beach '588 discloses a wireless communication device comprising:

a buffer to store one or more data packets during a power save mode of said wireless communication device (Fig.2; p.0014; (p.0021; p.0022, lines 1-3; p.0031, lines 1-7; the mobile unit accumulates a received audio packet in buffers A and B in the external memory 38); and

a transmitter operatively coupled to said buffer (figure 2; RF module 36 coupled to the buffer, e.g. external memory, through the processor), said transmitter to transmit during an awake mode of said apparatus said one or more data packets stored by said buffer during said power save mode of said wireless communication device (p.0022, lines 3-9); and

an antenna operationally coupled to said transmitter (figure 2; antenna 42).

However, Beach fails to disclose wherein the antenna is an omni-directional type antenna. At the time of the invention, it would have been obvious matter of design choice to a person of ordinary skill in the art to couple an omni-directional antenna to the transceiver because Applicant has not disclosed that an omni-directional antenna provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art would have expected

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Applicant's invention to perform equally well with any other known type of antenna (as admitted by Applicant in his specification (page 4, lines 22-26) omni-directional antenna are known in the art).

**Regarding claim 31,** Beach '588 discloses the wireless communication device of claim 30, further comprising a processor to produce said one or more data packets (figure 2; P.0009, lines 12-17; p.0021, lines 15-18; p.0022, lines 3-6; the processor compresses the accumulated data and convert the data in a transmit packet).

**Regarding claim 32,** Beach '588 discloses the wireless communication device of claim 31, wherein said transmitter is further adapted to transmit an awake mode signal to indicate a start of said awake mode (Fig.2; p.0008, lines 1-4; p.0026, lines 10-16; the RF module transmit a signal indicating the that the mobile unit has gone to the communications active (CAM) mode).

**Regarding claim 33,** Beach '588 discloses the wireless communication device of claim 32, wherein said transmitter is further adapted to transmit a power save mode signal to indicate an end of said awake mode (p.0026, lines 20-23).

**Regarding claim 34,** Beach '588 discloses the wireless communication device of claim 31, further comprising a power source and circuitry to connect said transmitter to said power source during said awake mode (figure 2; p.0022, lines 1-6; p.0031, lines 1-4; the mobile unit is powered by its battery 40; and the processor connects the battery to the RF module and selectively turns on the RF module for transmission of a data packet).

**Regarding claim 35,** Beach '588 discloses the wireless communication device of claim 34, comprising circuitry to disconnect said transmitter from said power source during a power save mode (p.0022, lines 1-3; p.0026, lines 8-10; the processor shuts down the RF module, e.g. transmitter/receiver, in the power save mode of the mobile unit).

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***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marisol Figueroa whose telephone number is (571) 272-7840. The examiner can normally be reached on Monday Thru Friday 8:30 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester G. Kincaid can be reached on (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Marisol Figueroa  
Art Unit 2617

  
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